

“One Way Out of the
Railroad Dilemma”

ADDRESS

to the

Chicago
Commercial Club

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HOWARD ELLIOTT

CHICAGO, ILL.

March 8, 1919

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of the Executive Committee of the
Northern Pacific Railway Company

Chairman, Committee on Intercorporate Relations
of the
New York, New Haven and Hartford
Railroad Company

Member of Executive Committee of
Chicago, Burlington & Quincy Railroad
Co.

Colorado & Southern Railway Company
New York, Ontario & Western Railway
Co.

Rutland Railroad Company

ADDRESS TO THE CHICAGO COMMERCIAL CLUB
BY HOWARD ELLIOTT

MR. PRESIDENT, AND MEMBERS OF THE CHICAGO
COMMERCIAL CLUB:

It is a great pleasure to attend once more a meeting of your club, and I thank you for the compliment paid in asking me here. I was a member of the St. Louis Commercial Club, from 1893 to 1903, when I moved to St. Paul; and, of the Boston Commercial Club from 1913 until 1917, when business took me to New York and Washington.

WORK OF COMMERCIAL CLUBS

At one time it was the custom of the Chicago, St. Louis, Cincinnati and Boston clubs to entertain each other, and these visits brought together some of the ablest men in the country, some of whom helped to make the United States what it is. Many of these men have passed on but the results of their hard, courageous work are a benefit to thousands who do not know who these men were, or do not realize what those pioneers did, and who sometimes fail to understand the greatness of the accomplishments of the United States in the last fifty years. They are like people who do not see the beauty and impressiveness of the forest because they see only trees and underbrush that are not to their liking. This remark will apply also to the really remarkable railroad system of the country, built practically since the Civil War. Hostile critics magnify the irritating defects, and minimize the vast benefits of a transportation agency that is the admiration of foreign students of the problem.

IMPROVEMENTS IN FIFTY YEARS

In 1880 I made my first visit to Chicago. From here I went to Iowa to work on the Burlington and lived west of the Mississippi River until 1913, when I left for New England to help out in the tangled railroad situation there. I well remember leaving Chicago on the Burlington from the old Illinois Central station on the Lake Front, and the slow trip through Illinois and Iowa. What changes and improvements of every kind there have been since then! Chicago, one of the greatest cities in the world. The country wonderfully developed between Chicago and the Pacific Coast. Great railroad building northwest, west, and southwest. The Northern Pacific, Great Northern and St. Paul roads all completed to the Pacific coast. The great work of grade separation in Chicago nearly completed and improved freight and passenger terminals all over the country. These give better and more comfortable service to the public. Population, land values, bank deposits and clearings increased. Manufacturing, Mining and Agriculture all highly developed. Marked improvements in schools, colleges and charitable institutions, better living conditions, and more comforts and luxuries for both poor and rich. A greater pride in country and community, and greater desire to help the world.

In this huge constructive work some mistakes were made, but the sum total is magnificent, and while social conditions are not perfect, and never will be, vast progress has been made in every direction.

The work of these generals and soldiers of com-

merce and development and the growth of the country during the last fifty years ought to be a repudiation of those who now want to establish new, untried, and, so far as we can gauge, unsuccessful methods of carrying on some of our vast enterprises upon which the welfare of the people so largely depends.

CHANGE METHODS WITH CARE

That there must be changes in methods and habits, in business and in government as the world grows and the complications of life increase, no one will deny. But it is surely unwise to cut loose hastily from methods that have already accomplished so much for our country.

You have asked me to say something about one of the important questions now under consideration by the people and Congress, namely:

“What will be the best plan for owning, managing and operating the railroads of the United States?”

I say frankly at the outset that thirty-nine years in the railroad business have led me to believe very strongly:

That Government ownership, management and operation of American railroads are not for the best interests of the nation.

That private ownership, with wise, energetic and honest management and operation under reasonable and protective regulation, will produce the best results for the country.

That regulation should be so arranged and directed as to preserve and encourage the initiative of the American citizen, to be prompt and responsive to changed conditions,

but, at the same time, provide checks to prevent any unfair practices by owners and managers, and also to prevent repressive, unreasonable and conflicting action by regulatory bodies.

That in cases of disagreement between State and National the national authority must prevail.

THE RAILROAD PROBLEM

I cannot believe that human nature and the art of government have developed sufficiently to make Government ownership and operation successful. I believe that embarking on the sea of Government ownership and operation involves a risk of wreck, not only to the railroad system of the United States, but to some of the fundamental theories of American life and effort which have made us a great nation.

I believe that owning and running a railroad is business, just as much as owning and running a bank, or a coal mine, or a steel plant. People must have railroads; they must have banks, coal and steel. I believe that it is just as unwise to make the furnishing of railroad transportation a function of Government as to make the furnishing, in peace time, of money, credit, coal and steel a function of Government; that the best result for the nation can be secured by adopting for the railroad business the principles discussed later.

WHAT IS BUSINESS?

People have been led to believe that the railroad business is very different from other forms of busi-

ness and that it can be successfully conducted under many conflicting and restrictive laws. In considering this it is well to define business. Professor James Mark Baldwin, in his book, "The Individual and Society," says:

"Business has to do with the production and the distribution of valuable things; money, utensils, anything for which there is a demand in society, or on which society or some individuals of it set value"; and again, "to produce such things in response to the demand and to distribute them to those from whom the demand comes, is the undertaking of business."

This sets forth clearly the idea that the distribution of things is business just as much as the production of them. One trouble in this country is that we have wandered too far from the common sense view that railroading is *business*.

ENERGY, INITIATIVE AND LIBERTY

The tireless energy and individual initiative of the American people have built our great systems of railroads, have made Chicago and the great West; and have made America, today, the dominant nation in the world, and we should be very slow to injure the one or to unduly shackle the other.

In his preface to his friendly volume, "The United States in the Twentieth Century," M. Pierre Leroy-Beaulieu, one of the keenest of foreign observers of conditions in the United States, and a noted economist, uses this striking language:

"Moral worth, which includes the recognition of duties as well as of rights, self-respect

and respect for one's fellows, has contributed fully as much as the magnificent resources of their country to the brilliant success of the American people. Of the qualities that have co-operated to elevate them so rapidly to such a commanding position, the most impressive is a great, a tireless energy.

"It seems to me that the first care of the Americans should be to maintain it in all its integrity. The essential condition to the development of energy is liberty. Every restriction on liberty, with however good purposes, diminishes the individual responsibility and initiative. Yet we often hear mooted in America, as elsewhere, measures which under the pretext of correcting abuses, would immeasurably extend the State's field of action, and reduce the liberty of the citizens. It is my earnest hope that the American democracy will reject such enervating proposals, and will remain true to the virile and liberal traditions that have insured the United States so wonderful a growth."

The American railroad system has been created almost entirely through the tireless energy of the American citizen who has been at liberty to use his splendid individual initiative and who took the risks of business in the hope that he would have the rewards of success. Growth and development of the system were continuous until methods of regulation failed to respond promptly to changed conditions. The railroad executives of the country have been brought up in a hard-working school and have for many years been apprehensive that in time there would be difficulties such as confront the railroads and the country today.

WORK OF RAILWAY EXECUTIVES

Since 1912 the Railway Executives have been actively at work on the question of a better basis for the regulation of the railroads. Much work has been done on these lines and a committee, then known as The Railway Executives' Advisory Committee, was instrumental in getting President Wilson to send to Congress the following message, December 7, 1915:

"In the meantime may I make this suggestion? The transportation problem is an exceedingly serious and pressing one in this country. There has from time to time of late been reason to fear that our railroads would not much longer be able to cope with it successfully, as at present equipped and co-ordinated. I suggest that it would be wise to provide for a commission of inquiry to ascertain by a thorough canvass of the whole question whether our laws as at present framed and administered are as serviceable as they might be in the solution of the problem. It is obviously a problem that lies at the very foundation of our efficiency as a people. Such an inquiry ought to draw out every circumstance and opinion worth considering, and we need to know all sides of the matter if we mean to do anything in the field of Federal Legislation.

"No one, I am sure, would wish to take any backward step. The regulation of the railways of the country by Federal commission has had admirable results and has fully justified the hopes and expectations of those by whom the policy of regulation was originally proposed. The question is not what should we undo? It is whether there is anything else we can do that would supply us with effective

means, in the very process of regulation, for bettering the conditions under which the railroads are operating and for making them more useful servants of the country as a whole. It seems to me that it might be the part of wisdom, therefore, before further legislation in this field is attempted, to look at the whole problem of co-ordination and efficiency in the full light of a fresh assessment of circumstances and opinion as a guide to dealing with the several parts of it."

Congress thereupon appointed a joint committee from the House and Senate, with the late Senator Newlands of Nevada as Chairman. The committee collected much information and was busy on the subject when the war over-shadowed everything. When the armistice was declared the executives realized that the question was more pressing than ever and the old association was renewed under the name of the Association of Railway Executives. They formulated suggestions during November, December and January, which were submitted to the Senate Committee on Interstate and Foreign Commerce, January 9, 1919. The suggestions represent the crystallized opinion of men who have spent their lives in the business and who represent the earning power of more than 90% of the railroads of the country. These men are as earnest, sincere, and patriotic as any class of citizens in their efforts to suggest a basis for the ownership, operation and regulation of the roads that will be just to owner, shipper, traveler and worker,—reflect promptly changed conditions, and keep pace with the growth of the country.

BASIS OF THEIR SUGGESTIONS

Their suggestions are based on a belief:

That it is better for the country that the furnishing of transportation be a function of business rather than a function of Government.

That every reasonable precaution should be taken to preserve the energy and initiative of the American citizen and that there should be allowed reasonable liberty of action.

That reasonable regulation, but not management and operation, by State and Nation is necessary and desirable, and that in all cases of doubt or disagreement the Nation must be the dominant regulating authority over State, County and Municipality.

That under private ownership and management conservation of railroad facilities, service and credit can be obtained by the common use of property when such use is clearly in the public interest.

That in order to obtain the results needed for the protection and development of the Nation it will be necessary to change and modify some practices and ideas that have long prevailed. The owners must assent to Federal control, but they should also have Federal protection and encouragement. The great labor organizations must assent to some orderly way of settling disagreements over wages and working conditions, so that the railroads will continue to serve the public pending the adjustment of disputes. The Government, in its regulating practices, must be more responsive to changed conditions, and there must be protection of this great industry as well as regulation, and there must

be no twilight zone between National and State authority.

REGIONAL PLAN

The railway executives do not believe in the so-called "regional plan" under which all of the railroads in a given territory are to be merged into one system. They believe that our geographical, economic and social conditions are so different from those existing in foreign countries that we must solve our problem in our own way and not adopt a plan because some other nation may have experimented with it. The present great systems of railroads have been built up in the last forty, fifty, even seventy years, and they have developed along certain lines and are now a part of the industrial and financial structure of the nation. They are co-ordinated to themselves, to the communities they serve, to their connections and competitors as to tracks, terminals, equipment and other physical facilities and their financial structure is very complicated and they should be allowed to preserve their identity and integrity physically and financially.

Small, unsuccessful, and so-called "weak lines" dependent upon their connections with the great trunk lines, must gradually be absorbed and become a part of the larger systems, just as has been done in the past.

PRESENT GREAT SYSTEMS

Regulated competition, especially as to service, should be continued. Without reasonable competition development and the introduction of the most

improved methods for giving service to the public will be checked. Without attempting to say how many great systems will serve the country best, a few examples may be given.

It will be better for the growth of the territory between Chicago and the Atlantic seaboard if the New York Central is maintained in its entirety; so also the Pennsylvania system and the Baltimore & Ohio; in the West, the Burlington, the Union Pacific, and the North Western; in the Northwest, the Northern Pacific and Great Northern; in the South, the Southern Railroad, the Atlantic Coast Line, etc.; in the Southwest and Pacific coast, the Santa Fé and Southern Pacific. Other examples could be given. The continuation of these great systems will develop a greater spirit of effort on the part of officers and employes than if all competitions were eliminated, and this spirit means much for the future development of the country and the railroads and greater satisfaction to the public.

SUMMARY OF SUGGESTIONS

A summary of the suggestions of the Railway Executives is as follows:

Ownership, management and operation by private owners rather than by the Government.

Regulation as to all essential matters, including rates, both State and interstate, to be by the Federal Government, which shall control in case of conflict with States.

Establishment of a Department of Transportation with a Secretary, who shall be a member of the President's Cabinet.

Placing in the Department of Transporta-

tion various executive duties,—such as the enforcement of the Safety Appliance Act, the Hours of Service Law, etc., and relieving the Interstate Commerce Commission of all such duties except those relating to Accounts and Valuation, thus making it a quasi-judicial body with ample time to deal with the great questions of discrimination, relations and reasonableness of rates, etc.

State Commissions to be retained with powers of local regulation except as to rates and securities. Regional Interstate Commerce Commissions to be created upon which will be a representative from each State in a region. This will enable prompt action by local tribunals near to each State and community for local matters. More important matters, national in scope, to be handled by the Interstate Commerce Commission and the Secretary of Transportation. The jurisdiction of the several bodies to be carefully defined and harmonized.

The rates, both State and interstate, established by the Director General to remain in effect until changed by lawful process. The establishment by Congress of the rule that rates shall be adequate to attract to the railroad business the capital needed to give the public the facilities and service they demand. Also requiring that, when it is in the public interest to have increased rates in order to have adequate facilities and service, the influence of the Administration, through the Secretary of Transportation, shall be used to that end. The carriers to initiate rates subject to suspension by the Secretary of Transportation and to review by the Interstate Commerce Commission. The Commission to have the power

upon complaint to fix minimum as well as maximum rates.

Amendment of the Sherman Anti-Trust Act so as to permit mergers, combinations and other agreements that will mean conservation of capital and service and elimination of waste. Such agreements, however, to become effective only when in the public interest and when approved by Federal Authority.

Prohibition of lock-outs and strikes until investigation and report so that public opinion can have a chance to express itself. Provision for an impartial board made up of an equal number of representatives of the public, of the employers and of the employes to report to the Secretary of Transportation upon the merits of any controversy which the parties are unable to adjust.

Exclusive Federal supervision and approval of all securities issued by railroads. The funding for a term of years of railroad obligations now due to the United States.

Federal incorporation.

The power to rest with the Federal Government, when it is clearly to the general interest of the public, to:

Arrange for the distribution and re-routing of business so as to prevent congestion and blockades.

Arrange for fair distribution of cars between roads, regions and shippers.

Arrange for the joint use of terminals when owning roads fail to agree.

Prevent waste and extravagance in construction of new roads, branches, expensive terminals and duplicate facilities.

Arrange a unification of the roads into a continental system in a national emergency, such as war.

The railway executives believe that with these principles embodied in suitable laws and with harmonious machinery for administering them, all the benefits possible under Government ownership or operation, or both, can be obtained and the obvious dangers of such Government ownership and operation avoided.

RAILROADS DID NOT "BREAK DOWN"

The statement has been made that the railroads "broke down," and that therefore better results for the nation and for the railroads can in the long run be obtained under Government operation than by private operation. This is discrediting the great achievement of the American people in creating, during the last fifty years, the best railroad system in the world.

Certainly private ownership and operation, while not perfect, have produced unusual results. Private owners created a system of railroads with less investment of capital for the service rendered, and had up to December 28, 1917, furnished better service to the public and at lower rates and had paid the highest wages to employes than in any civilized country. This was done when the citizen had for a considerable period "liberty" to exercise his "tireless energy" and his "individual responsibility and initiative."

More transportation was demanded from the railroads in parts of the country, namely, New England, New York, New Jersey, Delaware,

Pennsylvania, Ohio, Maryland, the Virginias, and in a few other places than could be furnished with the existing plant under the conditions imposed by the war, and existing regulatory laws, both State and National. This was not a break-down of the American railroad system any more than the inability of the steel companies to furnish all the steel wanted, the cotton mills all the cotton wanted, and the shipyards all the ships wanted was a breakdown of these industries. In these cases immediate steps were taken to increase capacity, some of which steps are not even completed now. Similar steps were taken to enable the railroads to get money, men and material, but they, too, were delayed in completing their work, just as other industries were delayed. The real trouble was that under the existing regulatory system not enough latitude had been given to the railroad business to permit it to keep its plant ahead of the demands of the country. There should be a "factor of safety" in the transportation machine, so it will at all times be "ready to serve" and able to carry the "peak load." The system of regulation should permit reasonable liberty of action and give rates and encouragement enough to owners and managers to provide a margin as a national insurance policy.

REFORMS UNDER UNIFIED MANAGEMENT

Mr. McAdoo, in his statement to the Senate Committee, mentions seventeen different reforms or improvements that had been carried on, and could be carried on under Government operation. Without going into the details of all these, it is enough to say that any one of them that is of permanent value to

the public can be carried on under private control with a system of regulation as herein suggested. Many of the suggestions would have been put into effect years ago by the railroads had it not been for the restrictive laws.

LABOR

What is called the Labor Question is, of course, one of the most serious and difficult confronting the whole world, the railroads in particular, and there must be a broad view of it and a spirit of give-and-take by all classes of people. All good citizens desire to see wages and living conditions improve, but there is a limit to what commerce and industry can pay and survive. It is surely better to have reasonable wages and continuous employment rather than to force wages so high that industry languishes, for then the wage-earners themselves will suffer most of all. The Munn case was decided in 1876 and there are two interesting paragraphs in it. One reads as follows:

“Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large. When, therefore, one devotes his property to a use in which the public has an interest in that use he must submit to be controlled by the public for the common good, to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use; but so long as he maintains the use, he must submit to the control.”

The other reads:

“When one becomes a member of society, he necessarily parts with some rights or privi-

leges which, as an individual not affected by his relations to others, he might retain."

In legislation for public-utility companies the doctrine laid down in the first paragraph has been followed with increasing particularity even to the extent of trying to *manage* rather than to *control*. But not so with the second paragraph,—yet in the interest of society as a whole the laws must reflect some control of those "members of society" who work for public utilities.

The man who puts a dollar of his savings into the transportation business does so knowing that his dollar is subject to the power of the Government to make the rules and regulations governing the business. The man who decides to earn his dollar by working for the railroad should be willing to submit to reasonable wages, rules and regulations, just as much as does the man who puts in his dollar already earned. It is in the public interest to have the dollar invested regulated reasonably, and it is equally in the public interest that the dollar paid for service and the conditions of service should be regulated reasonably. In a complex civilization like ours in the United States, and with great concentrated populations to be served with food, fuel, shelter, light, etc., there must be continuous service by the transportation agencies, just as much as a continuous supply of water.

To bring this about there must be some method devised for fair and reasonable Federal supervision and regulation of wages and working conditions, and such regulation should eventually receive the final approval from the same power that is respon-

sible for the rates of fare and freight charged by the transportation agencies, so that the question of income with which to pay will be considered at the same time and by the same final deciding power as the outgo to be paid. Just as the Government should have the power to prevent wasteful use of the railroad dollar invested, upon which the public will be asked to pay a return through rates, so should the Government have power to supervise wages and conditions of service, which ultimately are paid for by the public, through these same rates.

With the preservation of private ownership and management in individual systems of railroads there will be a better *esprit de corps* among the great army of railroad employes than if all became employes of the Government.

And if employes can once be satisfied that a *fair* and impartial tribunal is in existence to hear important complaints that cannot be settled promptly on the "home road" between employe and employer, there should be no need of strikes, which are simply a form of war. The world has just lost millions of men and billions of treasure in a struggle whether force rather than justice and reason were to settle the affairs of the world. Surely the United States, the most enlightened and progressive nation in the world, can, if it takes up the question seriously, work out some plan for adjusting industrial disputes that will carry out the doctrine of "live and let live" and save the waste, loss, sorrow and anguish that come to thousands of innocent people who have no part or voice in the controversy or its settlement.

CAPITAL AND CREDIT

Capital may be timid, but it was bold enough in the last fifty years to create our great American railway system. It will be willing to go on with that work if it can be assured that the policy of the Government will be to sustain the railroads in the legitimate conduct of their business and allow reasonable liberty of action instead of repressing and hampering the work. The credit of the roads will come back when people understand that Congress has laid down the rule that a reasonable rate is also an adequate rate, sufficient to reflect changed costs, increased wages and rates for the use of money; when Congress insists that some reasonable method of adjudicating controversies over wages and working conditions shall be written into the law of the land; and when the nation insists that it is the duty of a President to preserve, protect and expand the transportation facilities of the country, just as much as Agriculture, Banks, Manufactures, Commerce, or other forms of individual activity.

MAKING PRICES AND RATES

The railroads should have the right to initiate their rates or prices in order to take prompt action to protect the country and patrons as well as the railroads. The manager of an enterprise is studying it more closely than any one else. He desires to please his patrons, to develop his markets and to improve his plant. He is in a better position than anyone to say what the price shall be for the article or service he is selling. He knows what complications and difficulties he must meet and he is constantly looking

ahead. Public-service corporations, however, must be controlled in their prices or rate-making. Hence, provision is made in the railway executives' plan of suspension of rates by the Secretary of Transportation and review by the Interstate Commerce Commission. This is an absolute safeguard against discrimination or extortion and protects the public fully, while permitting liberty of action, prompt decisions and business judgment between the railroads and the communities served by them. If railroads are to be managed as business enterprises it seems essential that they shall have the right to name their rates, subject to the checks described.

SECRETARY OF TRANSPORTATION

Whether to put all the regulatory power in the hands of the Interstate Commerce Commission or to relieve the pressure on that overburdened body by giving it help in the form of Regional Interstate Commerce Commissions who will be nearer the people and to the State Commissions, and whether to recognize the great importance of the transportation business by having a Cabinet officer to take charge of some of the executive work connected with regulation and to watch and protect the transportation agencies, are, of course, questions of individual judgment.

I believe, on the whole, it is in the interest of the public and that better results for the nation will be secured by the plan suggested by the railroads.

Washington had only five Cabinet officers. Since then the growth of the country has required the

addition of Secretaries of the Navy, of the Interior, of Agriculture, of Commerce, and of Labor.

An effective transportation machine is vital to the interests of the nation in war and peace. Its importance justifies having a man in the Cabinet to confer on an equality with other Cabinet officers dealing with great national questions and resources, and to present the transportation needs of the nation directly to the President and his advisers. He will not manage and operate the railroads any more than the Secretary of Agriculture manages and operates the farms of the country, or the Secretary of Commerce the manufacturing plants. He will not exercise the vast powers conferred upon the Director General as a war measure, and he will not have, as some have suggested, 2,000,000 or more railroad employes reporting to him directly or indirectly, and he cannot hire or discharge them. He will have powers of supervision, of correction, and, what is equally important in the interest of the public, of protection to the largest single business interest in the country after agriculture. The Administration, through him, will have the same intense pride as to adequacy of service and a successful transportation system to serve the country as it has in a successful administration of the Treasury, of the War Department, of the Navy, and of the Interior Department. His executive powers will depend upon the laws and policies as to rates and regulations and practices which Congress will enact and there will be checks upon him through the Interstate Commerce Commission.

The charge is made that this plan injects the management of the railroads into politics,—unfortu-

nately you cannot divorce politics entirely from the situation if you admit the principle of regulation by the Government, but in the long run, with the President and the Secretary of Transportation directly interested in giving the country good service, it has seemed to us that the highest standard of political action would be attained.

The suggestion of a Department of Transportation was first made, so far as I know, by the Hon. Charles A. Prouty, long a member of the Interstate Commerce Commission, in a speech made in 1907, in which he said in commenting on the very great difficulties confronting the Interstate Commerce Commission, with its varied duties:

"The Commission itself might perhaps be reorganized and its duties divided. Its executive functions could be transferred to a bureau in some department. I have myself thought that a new department should be created. Such a department would, from the first, have occupation in plenty. No department would be oftener applied to by all classes, nor would any be of more service to the whole public, railways and patrons alike."

Seven years later I advanced the same thought in an address at Norwich, Connecticut. Judge Lovett, in 1918, after nearly two years' service with the Government, strongly recommends the plan, and all these suggestions were made without any knowledge of the viewpoint of others. The railway executives have considered this question seriously during the last seven years, and they debated it during December and January last. Finally, with practical unanimity, they came to the conclusion that the suggestion

would on the whole produce the best results for the Nation and the railroads.

In considering this question, all will admit that the interests of the Nation are paramount and that what is needed is a national transportation system coordinated as to rail, water, electric traction and highway that will furnish the country with adequate, safe, convenient and comfortable transportation in keeping with improved living conditions that should exist in a country with such wonderful resources as the United States.

The railway executives have no right to speak for other forms of transportation, but it is in their minds that a Secretary of Transportation would supervise all forms of transportation and work to bring about the greatest development and co-operation between Railroads, Inland Waterways, Coastwise Vessels, and our new Mercantile Marine Fleet, with a minimum of duplicate investment, and bring to the attention of the President and Congress the national needs for an adequate system of transportation.

INTERSTATE COMMERCE LAW

The Interstate Commerce Law was passed in 1887 and we have been going along under that plan and its amendments for more than thirty years. Since that law was passed new men and new minds have come into the business world and the social fabric of the nation. Not unnaturally after thirty years some defects have been developed in a plan created out of the thought and opinion of people thirty to forty years ago, and it has been found lacking

under the conditions of today; and this is also true of restrictive and conflicting State laws and regulations. It is fortunate and natural that many suggestions about this important subject are now being made.

Some have suggested that the Government guarantee a fixed return upon railroad property. The railway executives believe that a guarantee would tend to reduce initiative and retard efficient management, and they do not ask for it. They believe with adequate rates, reasonable liberty to act, and good management roads that have been wisely planned, honestly financed and well managed can sustain themselves. Poorly located or unwisely promoted or badly financed roads may have to reorganize or merge with other roads. There would seem to be no more reason for a guarantee of a return upon railroads than a return upon banks, coal mines, electric light plants, etc. A guarantee would lead to a divided responsibility and to an increased participation by the Government as the guarantor in the actual management of the properties, which would eventually lead to Government ownership. There can be no enduring middle ground; there must be private ownership and operation with reasonable Governmental regulation, or there must be Government ownership and operation.

Others have suggested a profit-sharing basis, and, after a return is made of a fixed sum—6 per cent on the value of the property is generally suggested—the excess, if any, to be divided between the Government, the employe and the owners of the property. The work of valuation will not be completed for sev-

eral years, as before it can be finished controversial questions will no doubt be taken to the Supreme Court. All this means much delay in arriving at a working basis.

A Federal corporation, with the nine Interstate Commerce Commissioners and eight railroad men as directors, is suggested for performing certain functions now resting partly with the Commission and partly with the Companies.

Others suggest the selling of all existing railroads to new regional companies, in number from six to twelve, and a Government guarantee of a return on the securities of the new companies. This would mean a very complicated financial transaction, would involve a large amount of detail that would require much time to work out, and doubtless much litigation.

Some of the great labor organizations have suggested that the Government purchase all the stocks of the companies and own the roads subject to the bonds,—all the roads to be then managed as a national system by a board to consist of an equal number of directors appointed by the President, by the officers of the roads, and by the employees. This would eliminate competition and put vast powers in this proposed board.

We talk about solving the railroad problem. Probably none of the great economic problems can actually be solved permanently. We can, and always will, improve on past practices and we should approach this matter with that idea in mind and not with the idea that an absolutely perfect plan can be developed and put into effect. Congress, in its wis-

dom, can surely take the accumulated information and the best thought obtainable on this important matter and produce a law that will better the present situation and provide a basis, perhaps, for another thirty years of railroad operation, during which period, no doubt, new men, new minds, and new conditions will make it clear that some other arrangement is more desirable for the general welfare of the nation.

If all the information accumulated in the so-called "Newlands Inquiry" and that to be obtained from the Interstate Commerce Commission, the United States Railroad Administration, State Commissions, the railroads, and from students of the situation, is utilized, does anyone believe that some conclusion cannot be reached within the period fixed by the present law,—that is, twenty-one months after peace?

If the desire and the will to accomplish this result is in existence, it can be reached, and should be reached in even less time than the twenty-one months' period.

WHAT THE TRANSPORTATION SYSTEM SHOULD PROVIDE

In a growing and still undeveloped country like the United States, and with a future that should be more wonderful than the past, any system of internal transportation should provide for:

Inducement for the individual citizen to engage in the business by permitting reasonable rewards for brains, energy, industry and the capital employed, substantially equal to the same kind of rewards in other forms of human effort.

Constant development of the transportation machine to keep it at all times ahead of the needs of the growing country.

Adoption of improved methods of carrying on the business in order to obtain maximum efficiency and economy.

Reasonable and regulated competition and co-operation for the purpose of producing development of different sections of the country and improvement in the methods employed by the transportation agencies serving the country.

Continuity of service so that the transportation machine will always be in a position to serve the country unless prevented by Act of God or by war.

Regulation through suitable Government agencies, which regulation must be of such form as:

(a) To attract capital and permit a steady improvement in, and expansion of, the facilities;

(b) Which must protect the interests of the public using the railroads, and promote the comfort, convenience and safety of that public;

(c) Which must protect the officers and employes who maintain and operate the road and which must work constantly in the direction of improved working and living conditions; and which must provide some method of adjustment of all controversies over wages and working conditions.

(d) And which must also protect the interests of those who have invested in the securities of the railroads and who are also directly interested because of railroad invest-

ments represented in insurance policies, savings bank deposits, etc.

The railway executives do not claim that their plan is perfect and they realize that the working out of details will be difficult, but it can be done and they believe it is a practicable plan that can be made effective during 1919 if the President and Congress will co-operate to that end.

If later on the people decide that profit-sharing, guarantees, regional consolidations are for the interest of the country those principles can then be enacted into law.

They further believe that the nation is about ready to allow once more "liberty of action" which permitted the American citizen to use so effectively his "tireless energy" and his "individual initiative" in making the United States what it is.

They still further believe the country is ready to say that regulation does not mean interference with personal liberty and management and that the interests of the public will be amply safeguarded through the Secretary of Transportation, Interstate Commerce Commission, Regional Interstate Commerce Commissions, and State Commissions. These will not be managing agents of our great National Transportation System, but a combination of alarm clocks to warn railroad owners and managers that they must be reasonable, and of policemen to check them if they are not, and of guardians in the interest of the people that the transportation system will be kept adequate.

While I am an optimist on the future of the United States, nevertheless I do not minimize the serious-

ness of the situation confronting the railroads and the country today, growing out of conditions produced by the war. During the reconstruction period it is very essential that the present rate structure should stand, and until the new laws herein suggested are effective that the "Just Compensation" provided by the present control law be continued.

Otherwise there is grave danger of a financial collapse of some roads—and an inability of others to pay dividends which will affect the bonds now held by savings banks. The recent statement by Mr. Hines, in which he said that the President had no intention of returning the roads to the owners hastily and before a reasonable opportunity had been given Congress to legislate is reassuring; although it is what many believed the President, in the exercise of good judgment, would do when he assessed the whole situation.

The failure of Congress to pass the \$750,000,000 appropriation bill creates added difficulties, but I have faith that the Director General and the Secretary of the Treasury, with the co-operation of the War Finance Corporation, the Federal Reserve Banks, the Bankers and the railway companies will find a way to save the situation until the incoming Congress can act.

LET THE COMPANIES HELP THE DIRECTOR GENERAL

One administrative step that might be taken in the not distant future and would pave the way to a return to private ownership and operation is this suggestion, and I believe it would help the situation:

Let the President continue the central organiza-

tion in Washington under the Director General, who with his staff will supervise the whole situation, direct policies, and make those adjustments with the railroads that will be required after Governmental control ceases. This central organization should direct the operation of the railroads through the companies themselves, rather than through a system of regional directors. In other words, say to the boards of directors and executive officers of each company that from and after a given date they are to take charge of their properties and manage, maintain and operate them for the account of the United States and as may be ordered by the President through the central organization in Washington. At once there will be a better feeling among officers and men, and less uncertainty about the future; the intricate and delicately adjusted organization of the great system of railroads will begin to function better and work more smoothly and effectively; there will be less lost motion and less crossing of wires than under the very highly centralized system now in existence with regional directors. This suggestion will be carrying out the theory of the President when in his address to Congress on January 4, 1918, he said:

"The common administration will be carried out with as little disturbance of the present organization and personnel of the railways as possible. Nothing will be altered or disturbed which it is not necessary to disturb. We are serving the public interest and safeguarding the public safety, but we are also regardful of the interest of those by whom these great properties are owned and glad to avail ourselves of the experience and trained ability of those who have been managing them."

Most, if not all, railroad managers have reached the conclusion that what is known as the "divisional system" of operation is better than the "departmental system." In other words, that someone must be in the driver's seat on a small enough unit of property to control the ordinary maintenance and operation, subject to a central directing authority as to general methods, standards of work, maintenance, and accounts.

Where the departmental system has been tried it has not proved effective because of conflict of authority between representatives of different departments at long distances from a central directing authority.

In making this statement, I make no criticism of the Director General, or of his staff in Washington, or of the various regional directors and their assistants (nearly all of whom I know personally). All are good and experienced men, loyal to the country, to the Director General, to the railroads—and all have worked unceasingly. It is the system of management I am discussing, not individuals.

THE PEOPLE TO DECIDE

The American people, of course, can have any kind of railroad ownership and management they want. Get them really interested and give them all the facts, and they will decide right. We all know how nearly the "Talkers" came to placing the country on a silver basis; and how slowly the country woke up to the serious danger confronting it. But when it did wake up it decided honestly and wisely.

It is not conceivable that the country will ruin its

marvelous industrial and railroad system, and will unjustly impair the value and effectiveness of nearly twenty billions of railroad property. It will not be done. But it is essential for the quiet thinkers and workers who make the great public opinion of the country to get busy to offset the "talkers," who sometimes seem to be in a majority because they make more noise.

If we lived in a town of 10,000 people, and 100 of them were discontented and busy trying to change everything, the other 9,900 would not pay much attention to them, but would go on about their daily affairs until the 100 got to be a nuisance; then the 9,900 would put a stop to it.

Does anyone believe there are really 1,000,000 active so-called Bolsheviki in the country? And yet that number is the same proportion of 100,000,000 Americans as 100 is of the town of 10,000. The Bolsheviki are not going to ruin the country; they are not going to ruin industry; they are not going to ruin the railroads. The other 99,000,000 people are going to insist upon American methods, American industry, American railroads, and will not permit foreign Bolsheviki methods, and foreign Bolsheviki Socialism of all industry. The Bolsheviki are making a lot of noise, but the quiet, sensible people are thinking and will rise up and say a few simple, old-fashioned things, such as "two and two make four," "you cannot have your cake and eat it, too," "you cannot have something for nothing."

The Constitution is not a "scrap of paper," and the Fifth and Fourteenth Amendments mean what they say.

People are beginning to tire of the idea of having the Government say how everything should be run, and they want a return to that "liberty of action" that Leroy Beaulieu spoke of, and that permitted the "tireless energy" and "individual initiative" to up-build the United States.

We are on the eve of the greatest fifty years in the history of this country, or of any country, and our only danger is that because of inaction we let good, hard common sense and the eternal verities be put in the background and lose a lot of valuable time and effort trying futile experiments.

So it is time for every patriotic American to stand up for America and her institutions and have courage to speak and act for what is right and true. We need a few more Ole Hansons in every community, and the people are ready to support good, old-fashioned, wholesome American doctrines administered by Americans who believe in America first, last and all the time.

With the principles suggested made a part of the laws of the land, and with properly co-ordinated regulative machinery, I believe Government ownership and operation can be avoided and that a sound answer can be given to the question "What will be the best plan for owning, managing and operating the railroads of the United States?"—that the railroads will enter upon another period of stability, and that they will be able to serve the country wisely and well and give to their owners reasonable rewards for their investments.

I hope very much that men of affairs, such as the

members of this club and of similar organizations, will continue their interest in this important matter and use their influence to have a new system of regulation made effective in 1919.

SUPPLEMENT

The Association of Railway Executives represents Railroad companies owning over 92 per cent. of the railway mileage of the country. Its suggestions for constructive and remedial legislation are printed below. These are the result of thorough study and deliberation and represent the consensus of opinion of practical American railroad men. They were unanimously adopted by the Association's Standing Committee, December 11-15, 1918, and were unanimously approved by the Association at its meeting of January 5, 1919.

The Standing Committee above referred to consists of the following members:

THOMAS DEWITT CUYLER, *Chairman*

ALFRED P. THOM, *General Counsel*

S. T. BLEDSOE, General Counsel, Atchison, Topeka & Santa Fe Railroad Co.

R. M. CALKINS, President, Chicago, Milwaukee & St. Paul Railway Co.

W. R. COLE, President, Nashville, Chattanooga & St. Louis Railway Co.

HOWARD ELLIOTT, President and Chairman, Northern Pacific Railway Co.

S. M. FELTON, President, Chicago Great Western Railroad Co.

W. H. FINLEY, President, Chicago & North Western Railway Co.

CARL R. GRAY, President, Western Maryland Railway Co.

A. H. HARRIS, Vice-President, New York Central Lines.

- CHARLES HAYDEN, President, Chicago, Rock Island & Pacific Railway Co.
- L. E. JOHNSON, President, Norfolk & Western Railway Co.
- HOWARD G. KELLEY, President, Grand Trunk Railway System.
- JULIUS KRUTTSCHNITT, President, Southern Pacific Co.
- E. E. LOOMIS, President, Lehigh Valley Railroad Co.
- L. F. LOREE, President, Delaware & Hudson Co.
- ROBERT S. LOVETT, President, Union Pacific Railroad Co.
- WILLIAM CHURCH OSBORN, President, Texas & Pacific Railway Co.
- CHARLES A. PEABODY, President, Illinois Central Railroad Co.
- SAMUEL REA, President, Pennsylvania Railroad Co.
- BIRD M. ROBINSON, President, American Short Line Railroad Association.
- W. L. ROSS, Receiver, Toledo, St. Louis & Western Railroad Co.
- HENRY RUHLENDER, President and Chairman, St. Louis, San Francisco Railway Co.
- FRANK TRUMBULL, President, Chesapeake & Ohio Railway Co.
- F. D. UNDERWOOD, President, Erie Railroad Co.
- H. WALTERS, Chairman, Atlantic Coast Line Railroad Co.
- DANIEL WILLARD, President, Baltimore & Ohio Railroad Co.

PRINCIPLES WHICH SHOULD BE INCORPORATED IN A PLAN PROVIDING FOR GOVERNMENT REGULATION OF CARRIERS ENGAGED IN INTERSTATE COMMERCE.

The fundamental and essential purpose to be accomplished is to furnish the public with safe, efficient and adequate transportation at the lowest cost consistent with such service, and with due regard to the just interests of the owners and employes, and also adequate to the nation's needs even in times of great national emergency or peril.

It should be realized that the commerce to be provided for, whether in peace or war, is not essentially, or in large part, local, but is in its most important and controlling aspect interstate and continental. Manifestly any system which is adopted should be adequate to deal with and supply local needs as well as to meet the larger purposes referred to, and consequently it is necessary to consider whether instrumentalities of commerce whose principal functions and importance are interstate and continental should in matters affecting their capacity to serve on equal terms the entire public, be subjected to many local authorities or to an authority representing all localities.

The interests of the whole people demand, that, in any plan or policy which is adopted, provision shall be made:

- (a) For adequate service and facilities to meet not only the present requirements, but the growing

and expanding needs of our population and of our domestic and foreign commerce.

- (b) For new and additional construction when justified by public convenience and necessity and for the elimination and prevention of waste in unnecessary and injudicious construction.
- (c) For the proper co-ordination of the carriers' lines, facilities and organizations and for the consolidation thereof under proper limitations whenever necessary in the public interest to meet and provide for the reasonable demands of our domestic and foreign commerce.
- (d) For the prompt and orderly co-ordination of the lines, facilities and organizations of all carriers into a unified and continental system whenever required in the public interest, because of extraordinary national emergency or peril.
- (e) For a rate structure which will provide sufficient revenues and create sufficient credit to accomplish these purposes.

To this end, the following principles should be adopted:

1. Private ownership, management and operation of the American railways should, as a matter of national policy, be continued.

2. The power of regulation of the instrumentalities of interstate commerce, as to all things substantially affecting them, including all rates, state and interstate, should be exclusively in the hands of the national government; but these national functions should be administered through governmental machinery or agencies responsive to the needs of and

convenient to the people of the several states to the extent and the manner hereinafter suggested. State commissions should not be interfered with by the Federal Act except so far as necessary to carry out the purposes herein mentioned.

3. The Interstate Commerce Commission, which has heretofore been the sole Federal agency provided by law to deal with such matters, should be relieved from its executive and administrative duties, except as to Federal valuation and as to accounting, and should act as a quasi-judicial body clothed with authority to pass upon all questions concerning the reasonableness and adequacy of rates and concerning discriminations coming before it on complaint of any party interested, or referred to as hereinafter provided.

4. A Department of Transportation should be created, the head of which should be known as the Secretary of Transportation. He should be a member of the President's cabinet and should be vested with the following powers and duties:

(a) To carefully observe the transportation needs and transportation facilities of the country, and, by suggestion and co-operation with the carriers, and, by recommendations from time to time to the Interstate Commerce Commission in respect to the necessity for rates and revenues adequate to provide and maintain the proper service and to create the credit required to meet the needs of the public for facilities, while at the same time protecting the just interests of employes, of owners, of shippers and of the traveling public, to endeavor to insure the provisions of adequate transportation facilities for the real trans-

portation needs of each situation. He should be charged with the responsibility of recommending from time to time to the President such measures and policies as in his opinion would promote the interests of the public and the adequacy of the transportation service;

(b) If he find that a carrier is at any time so congested or otherwise unable to properly handle its traffic, he should have power to distribute such traffic over other lines and routes on such terms as between the several carriers as he may find to be just and reasonable under the circumstances, subject in respect to such terms to appeal to the Interstate Commerce Commission;

(c) If he find it to be practicable and in the public interest, he should have power, in the event of the failure of the interested carriers to agree, to require the use of the terminals of any carrier by another or other carriers on such terms as he may fix as reasonable and just, subject to the right of appeal of any interested carrier to the Interstate Commerce Commission;

(d) In cases of serious national emergency, he should have power to direct that, during the continuance of such emergency, the carriers should coordinate their facilities and operations and operate their properties as a unified national system on such terms as he may find to be just and reasonable in the public interest. Proper provision should be made for just compensation to any carrier injured thereby;

(e) If he find it necessary in order to provide adequately for the movement of traffic, he should have power to require any carrier to distribute its

cars to other lines on such terms as he may deem just, subject as to such terms to an appeal to the Interstate Commerce Commission;

(f) He should have power to require any carrier to distribute its cars among its patrons in accordance with their needs and the public interest in the same manner and to the same extent as the Interstate Commerce Commission is now by law authorized to do.

5. No new or branch lines of railroad or large and expensive terminals should be constructed unless a certificate of public convenience and necessity is first obtained from the Secretary of Transportation.

6. The executive and administrative functions of the Interstate Commerce Commission, except as to accounting and as to Federal valuation of railroad properties, should be transferred to the Secretary of Transportation.

7. The carriers should have the power to initiate rates, schedules of which should be filed with the Interstate Commerce Commission, with the Secretary of Transportation and with the State commissions of the States in which the rates are applicable and through which the carrier operates; and, if not suspended as hereinafter provided, such rates should become effective thirty days after the same have been so filed, unless a shorter period is in special cases authorized by the Secretary of Transportation.

It should be made the duty of the Secretary of Transportation to promptly consider the new rates so brought to his attention, and he shall either:

(a) Approve the same, giving his reasons for such approval, or

(b) Permit the rates to go into effect without his specific approval or disapproval, or

(c) Disapprove the same, giving his reasons therefor.

In case he disapproves any rate or fails to specifically approve or disapprove it, he may suspend it for a period not exceeding sixty days and refer the same to the Interstate Commerce Commission for consideration and determination.

8. The statute itself should provide the rule of rate-making, and should require that rates be not only what has been called reasonable, but adequate and sufficient to enable the carriers to provide safe, adequate and sufficient service, to protect existing investment and to attract the new capital necessary in the public interest, and, to that end, the statute should, among other things, specifically provide that the level of rates must properly reflect the cost of wages and all other expenses incident to the furnishing of transportation.

9. Rates, whether approved or disapproved by the Secretary of Transportation may by complaint be brought before the Interstate Commerce Commission for consideration, which should have power to pass upon the reasonableness and adequacy thereof, subject to the statutory rule in regard to rate-making, and, in any proceedings before it in respect to rates, the Commission should give due consideration to any recommendations in respect thereto made to it by the Secretary of Transportation. Rates approved by the Secretary of Transportation should be presumed to be reasonable and proper until found otherwise by the Commission.

10. In any proceedings before it in respect to rates the Interstate Commerce Commission should have the power to prescribe minimum as well as maximum rates and to determine the relation of rates and differentials whenever necessary or appropriate to establish or maintain a rate structure or a relation or differential found by it to be just and proper.

11. The statute should provide that existing rates, put into effect by the Director General of Railroads should be continued in effect until changed by the Interstate Commerce Commission as provided by law, or as provided in paragraph 7 hereof.

12. Any carrier should be given the right to complain of rates of another carrier in the same manner and to the same extent as a shipper might do.

13. The Interstate Commerce Commission, in order that matters within its jurisdiction may be dealt with more promptly and satisfactorily and with a fuller appreciation of all the circumstances and local conditions, should be directed to divide the United States into such number of regions as it may deem wise, and certify the number of regions and their boundaries to the President, who should appoint for each region a Regional Commission, which should be a board of primary jurisdiction, consisting of one member for each of the States embraced therein. The Regional Commissions should have authority to hear and determine all complaints in respect of matters within the jurisdiction of the Interstate Commerce Commission arising in their respective regions and to make reports thereon to the Interstate Commerce Commission, such reports during a fixed period to be subject to exceptions by any

of the parties, as in the case of reports by Masters in Chancery. If no exception is filed within the time limited and it is not otherwise ordered by the Interstate Commerce Commission, the orders and findings of the Regional Commissions should automatically go into effect. If there are exceptions, or the Interstate Commerce Commission considers the issues involved of sufficient importance to so order, a hearing should be had before it on such exceptions, or on the matters made subject to reconsideration by order of the Commission, and the order of the Commission should have the same effect as now provided by law in respect to its orders.

14. Express rates should be dealt with in the same manner as freight rates. Contracts between express companies and railroad companies for division of express earnings should not become effective until approved by the Secretary of Transportation.

15. Section Ten of the Clayton Act should be so modified as not to unduly hamper the proper transaction of business.

16. Existing laws should be so far modified as to authorize upon approval by the Secretary of Transportation as being in the public interest:

(a) Acquisition by a carrier engaged in interstate commerce of the properties, stocks or securities of another or other carriers; or consolidations and mergers of such carriers;

(b) Agreements between carriers engaged in interstate commerce in respect to rates and practices;

(c) The pooling of cars and other transportation facilities;

(d) The division of earnings in connection with

the elimination of unnecessary train service.

All such agreements and arrangements should be filed with the Interstate Commerce Commission and with the Commissions of the several States whose traffic is affected as well as with the Secretary of Transportation, and be open to public inspection.

17. Continuity and regularity of transportation are absolutely essential to the public. Both the capital invested and the labor employed in transportation are therefore engaged in a business vitally affecting the public interest, and by engaging therein assume the implied obligation not unreasonably to impair or interrupt the movement of trains. Questions of wages and working conditions affecting individual railroads should be settled, if possible, by officers of the railroads and representatives of the employes. A board should be constituted, under the Secretary of Transportation, on which the employes, the employers, and the public, should have equal representation, with the duty and authority to investigate and report to the Secretary of Transportation on the merits of any controversy, which the parties are unable to adjust, arising in the railroad or other transportation service, either in regard to wages or in regard to conditions of service; and, pending such investigation and report and for a reasonable time thereafter, there should be no lockout by the carriers and no concerted action on the part of employes which would have the effect of interfering with or interrupting the orderly movement of the United States mail or interstate or foreign commerce. The scale of wages and the expense incident to any change in the conditions of service

recommended in the report of such board, if put into effect, should be accepted and recognized in the making of rates, as a legitimate expense of transportation.

18. Provision should be made for the funding by the United States of indebtedness of carriers to it growing out of Federal control.

19. There should be in the Federal Government the exclusive governmental power to supervise and authorize the issue of securities by railroad carriers engaged in interstate or foreign commerce or by holding companies controlling any such carrier.

20. A system of Federal incorporation should be adopted into which should be brought all railroad corporations engaged in interstate or foreign commerce. Such system should be compulsory and not elective. It should preserve to corporations reincorporating under it, not only all of their contract rights and other assets of all sorts, but also (except as to any feature contrary to an Act of Congress) their existing charter powers, and they should also possess the general powers conferred upon all corporations organized under the Federal Act. The system of incorporation should provide a means of consolidation and merger for existing corporations engaged in interstate or foreign commerce, with the necessary power of condemnation, provided the Secretary of Transportation finds that such consolidation or merger is not contrary to the public interest and approves the same.